X.—THE MADRAS PUBLIC SERVICE COMMISSION BILL (BILL No. 19 OF 1935).

* The Hon. Sir CHARLES SOUTER:—" Mr. President, Sir, I beg to present the Report [a] of the Select Committee on the Madras Public Service Commission Bill (Bill No. 19 of 1935) and move that the Bill as amended by the Select Committee be taken into consideration."

The motion was duly seconded.

The motion was put and carried and the Bill taken into consideration.

Clauses 1 and 2 were put and carried.

Clause 3.

* The Hon. Sir CHARLES SOUTER:—" I beg to move—

> '*that at the end of sub-clause* (1) (*e*), *the word* " *and* " *be inserted, and at the end of sub-clause* 1 (*f*), *the word* " *and* " *be omitted.*'

They are merely drafting amendments."

The motion was duly seconded.

The amendments were put and carried.

Clause 3, as amended, and clauses 4 and 5 were put and carried.

Clause 6.

* The Hon. Sir CHARLES SOUTER:—" Mr. President, I beg to move—

> '*that in sub-clause* (2) (*a*) *of clause* 6, *after the words* " *allowances payable to the Chairman and,*" *the word* " *other* " *be inserted.*'

The reason for this amendment is the Chairman is also a member of the Commission and it makes the meaning clearer; it is purely a verbal amendment."

The Hon. Rao Bahadur A. T. PANNIRSELVAM:—" I second it."

The motion was put and carried.

Clause 6, as amended, and clauses 7, 8 and 9 were put and carried.

Clause 10.

* The Hon. Sir CHARLES SOUTER:—" Sir, I beg to move that—

> '*in clause* 10, for *the words* " *and shall be communicated,*" substitute *the words* " *and shall, unless the Governor otherwise directs, be communicated.*" '

Sir, this amendment is, I think, necessary for the reason that there may be some occasions when it will be inadvisable to communicate the opinion of the Commission to the officers. Hon. Members will realize

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[a] Printed as Appendix VIII on pages 525–533 infra.

that there will be occasions when to communicate such opinions will be unnecessary. As I pointed out with reference to the Bill which I introduced a little while ago here, it is necessary to reserve this power to the Governor. The Governor is in charge of all servants of the Crown, and therefore final orders as to whether the opinion of the Commission shall be communicated to the officers or not, ought logically to vest in the Governor. Sir, I beg to move the amendment."

The Hon. Rao Bahadur A. T. PANNIRSELVAM:—"I second it."

4-30 p.m. Mr. T. S. RAMASWAMI AYYAR:—"Mr. President, Sir, I think the right given to the officer concerned is certainly a very valuable right. It is the barest justice that can be done to an officer whose case is dealt with by the Public Service Commission. I do not think, Sir, that that right should be denied to him even if the Government thinks otherwise. I do not think it is fair to the officer concerned."

* The Hon. Sir CHARLES SOUTER:—"Sir, I cannot see where the unfairness comes in. I must again point out that under the new Government of India Act, the Governor gets the powers of protection of all Government servants, and, I think, we must presume that the Governor will exercise his powers and his individual judgment very fairly. I think unfairness in a case like this is never likely to arise.

"There are certain occasions which will readily occur to hon. Members when it is certainly inadvisable to communicate, at any rate the whole of the opinion which the Commission has given. I must press this amendment."

The amendment was put and carried.

Clause 10 as amended and clause 11 were put and carried.

Clause 12.

* Mr. K. A. NACHIYAPPA GOUNDER:—"I beg to move the amendment standing in my name, viz.—

'*In clause* 12, omit *all the words after the words* "*authority concerned*" *in line* 8.'

Sir, my intention in moving this amendment is to give the Services Commission opportunities to look into all the records which they desire to peruse in the interests of both the administration and the public. The Services Commission is a body which is to be created by His Excellency the Governor and there must be full confidence in it and as such if they want to look into certain records, I do not see why they should not be allowed to do so. The clause provides, as it is, that if the Governor or the Local Government certify that certain records cannot be seen by the members of the Commission, they should rest satisfied with it. Why should the Commission be driven to that position, I would like to ask? It is a body which is to be created by

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His Excellency the Governor. In the matter of making selections for appointments they would like to leave the entire discretion to that body. In carrying out its duties, it may be necessary for the Commission to look into all the records for coming to a conclusion in a particular case. Why should not an opportunity be given to them to satisfy themselves by a perusal of all the records concerned? Why this sort of want of confidence in their own Commission which the Governor himself creates should exist? In some cases it may handicap the functioning of the Commission efficiently if the records they desire to have are not available to them. As I said I am moving this amendment only with the object of making the Commission work perfectly well. They cannot do that unless they get all the connected records. If the Commission thinks that the records are of such great importance that they must have them for coming to a decision in a particular case, I do not think His Excellency will refuse to let them have such records; and, I do not think also that the Commission will unreasonably ask for documents which His Excellency or the Government are to express that they are of such a great confidential nature and they will jeopardize the interest of the public if they are given to the Commission. So, in order to allow full opportunities for the Commission to look into all the records they want, this amendment should be carried."

Mr. T. S. Ramaswami Ayyar:—"I second it."

* The Hon. Sir Charles Souter:—"Sir, I am afraid I cannot agree to this amendment. The House will notice that records will not be forwarded to the Commission only in these two cases, that is to say, (*a*) where either the Governor or the Local Government certify that the records cannot be furnished without undue labour or (*b*) where it is held not to be in public interest. I do not think anyone will cavil at the idea that the records, which might be called for by the Commission which might possibly go back to a large number of years and which might be of doubtful relevancy to a case, should not necessarily be furnished to the Commission. In regard to (*b*), I think that there always must be some document which Government must consider secret and which should not be revealed to anyone outside the Government office. I think that is a practice obtaining in every Government office I know of. Only in regard to these two cases power is given to the Governor or to the Government to refuse to send in those records. I think, Sir, that these two safeguards are very necessary and ought to be in the Act. I am afraid I must oppose this amendment."

Mr. K. A. Nachiyappa Gounder:—"I think it necessary that the Commission should have access to all the records and therefore I press my amendment."

The amendment was put and lost.

Clause 12 was put and carried.

Clause 12-A.

* Mr. K. A. Nachiyappa Gounder:—" Sir, I beg to move the amendment standing in my name, viz.,—

'Substitute *section* 20 *of the existing Madras Services Commission Act* for *this clause.*'

" It is on this very question this Bill was referred to the Select Committee even though the Government desired to pass it straightaway. Under the existing Act, we have an opportunity to consider the report of the Services Commission and to know how far in the matter of making appointments or selecting candidates, the Commission has been functioning satisfactorily during the year under report. In the absence of such a provision, this Bill was opposed vehemently and for this very reason it was referred to the Select Committee. The Select Committee after a good deal of consideration seems to have watered down and substituted that the report should be laid on the table. Even that provision the Hon. the Revenue Member is proposing to omit. I cannot understand why the Government should deny at least the privilege of carrying out this sort of post-mortem examination of the Report of the Services Commission. That is all we are asking for, and I do not think that the Government would be put to any trouble or difficulty in this matter or the prestige of the Commission will suffer in any way. It is quite necessary that we should be given an opportunity for discussing the report. As far as I know the Government of India Act does not prohibit the production of such reports before the House. I am sure everyone will agree that the House should be taken into confidence with regard to all matters connected with the administration. In an important matter like this at least the House should be taken into confidence and the report presented to them so that the House may consider their report and give their suggestions at least for future guidance. In our experience in this House, when reports come up before us, though they are adjourned time after time, we ultimately consider them and offer our suggestions, and, without fear of contradiction, I may say those suggestions were in many cases examined by the Commission and adopted in some at least. When our suggestions on these reports are only of an advisory nature, I do not understand why the Government should refuse to agree. I request the Government to take this House into confidence and allow us an opportunity to discuss the report of the Services Commission as we have been doing under the existing Act. Our past experience shows that our criticisms have not been without advantage for the proper working of the Commission. Hence, I commend my motion for the acceptance of the House."

Mr. T. S. Ramaswami Ayyar:—" I desire to second this amendment. I think really this is one of the most important sections so far as the rights of the Legislative Council are concerned. The proceedings of the Council during these two days show that the discussion of the Services Commission Report by the Legislative Council is certainly

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a very valuable right which the House possesses. The amendment only desires that the report should be laid on the table of the House. The discussion we had this morning showed that Members were able to tell the Government their viewpoints on many matters. I think if this valuable right is taken away, one of the most important privileges of the Legislative Council will be lost.

" On an analogy of the Public Accounts Committee Report, I should refer to the very valuable right which the Legislative Council possesses to discuss the report of the Public Services Commission. That is a privilege which has been exercised for a number of years and if this privilege is taken away, the Legislative Council will lose one of its most important rights. A reference to the proceedings of the Select Committee will show that there was a great fight over this question and I would ask the Chairman as to how an amendment for the deletion of this clause came about when a compromise was arrived at that this clause should stand. In the Select Committee it was felt very strongly and I think the Committee was equally divided on this question as to whether the report of the Public Services Commission should come before the Legislative Council for discussion and if it was lost it was lost by a very narrow majority and as a compromise arrangement it was suggested by me at the Select Committee that if the report cannot be placed before the Legislative Council for discussion at least it could be placed on the table of the House, so that the question might be taken up and the points raised by the Public Services Commission in their report might be pursued further at the time when the question of the Minister's salary was considered. When the Minister's acts with regard to a particular action of the Public Services Commission are to be discussed, it will be open to the Members of the Legislative Council to find out how far the Public Services Commission has been dealt with by the Government. We set up a statutory body, viz., the Public Services Commission which we expect would be able to keep themselves above party politics and I think it is a very good move that has been made. If you are going to preserve the rights and privileges of the Public Services Commission and see that those rights are not to be infringed at any time by the Government, it is necessary that the Legislative Council should have the power of perusing the report of the Public Services Commission. Supposing the Public Services Commission and the Government differ on a certain matter and the Government have vetoed the action of the former, how should the Legislative Council come to know of it and how are you going to say that the Government were wrong or right in their act? If you are going to take away that right, we are not going to give that strength to the Public Services Commission which we expected to give it, viz., that it should be kept above all party politics. Sometimes the Commission may be opposed to the views of the Government. If hon. Members would only look at page 2 of the report of the Select Committee they will find that when this clause came up for discussion, I suggested that section 20 of the present Services Commission Act should be incorporated

4-45 p.m.

as a clause in the Bill and that clause 13 should be renumbered as clause 14. This was not agreed to and as a compromise I suggested that the report of the Commission might be placed on the table of the House and the hon. Member in charge of the Bill had no objection to the suggestion. This is what the Committee says on page 2:

'The existing Act contains a provision, namely, section 20 by which within six months of the end of each financial year, the Commission shall present a report of its proceedings to the Local Government and the report shall be brought up by the Local Government for the consideration of the Legislative Council. This provision finds no place in the present Bill. The Committee by a majority considers that the Public Services Commission of the future should be under an obligation to make a report to the Local Government of its proceedings every year and that report should be placed on the table of the Legislature. The Committee has accordingly inserted a new clause to this effect.'

When the original motion was put and lost the compromise resolution was put and carried. I was therefore surprised to find the amendment moved by the Hon. the Revenue Member (which is supposed to be moved by him as a result of the compromise) that this clause should be deleted. We thought that there was a compromise and all the members unanimously agreed to this. If I rise to second the amendment of my hon. Friend, Mr. Nachiyappa Gounder, it is because I feel that this is the only way in which I could express my feeling that any act of deletion is not proper."

* The Hon. the PRESIDENT:—" The motion is—

'*Substitute section* 20 *of the existing Madras Services Commission Act for this clause.*'

I am sorry. A mistake has crept in. I should have asked the Hon. the Revenue Member to move his amendment. The amendment for omission is to come first and discussion will take place on both the amendments. I would, therefore, ask the Hon. the Revenue Member to move his amendment."

* The Hon. Sir CHARLES SOUTER:—" Mr. President, I beg to move—

'*that clause* 12-*A be* omitted.'

Mr. President, Sir, I move this amendment with a certain amount of diffidence, because my collagues on the Select Committee know that I agreed to allow a clause in the Bill to the effect that the report of the Public Services Commission might be placed on the table of the House. But the point is this: I am afraid if we keep this clause in, it will be just possible—I think it is probable—that the Government of India would refuse to pass this Bill. The point is that the affairs of the Services Commission, never anywhere else as far as I know, are open to discussion in Parliament. That practice I think stands on a very solid ground. I listened to Mr. Ramaswami Ayyar's remarks in which he stated that by a discussion in the Legislative Council they could discuss the Ministers for certain acts of theirs. Is it the only way in which they could so discuss? It seems to me that they could also discuss the acts of the Commission. But well, the point is that

discussion of the acts of the Services Commission is the objectionable part of it. I admit that the House is at perfect liberty to discuss the actions of the Ministers but I would nevertheless point out that the House under the ordinary rules of procedure has got ample power to discuss the action of a Minister with reference to anything that he may do towards the Commission. That can be done by a cut motion on the Minister's salary. That is the usual Parliamentary procedure. When the House proposes to call in question the action of a Minister the usual constitutional method is to table a cut motion on the Minister's salary, and here the House has ample powers to discuss the action of the Minister if it should like to do so. That is a very different matter to my mind from discussing the action of the Services Commission which is an objectionable feature of the discussion in the House. I do know that the Secretary of State is very strong in the opinion that the affairs of the Commission should not be discussed on the floor of this House. I think I pointed out in the Select Committee that in the House of Commons the Public Services Commission's name is never mentioned at all. There is either a convention or a rule that the acts of the Public Services Commission should not be discussed and that is scrupulously observed. I can understand the reason for this and that is, to adopt again the argument of my hon. Friend, Mr. Ramaswami Ayyar, that Public Services Commissions must be outside politics. Discuss the Minister's action by all means if you like, but do so under the ordinary power which the Legislative Council has to discuss a motion on the Minister's salary, and do not it lay down in an Act passed by the Legislative Council as a power to discuss the action of the Public Services Commission. That I know will be strongly objected to by the Government of India and the Secretary of State. Even if you leave clause 12 (*a*), we may have the Governor-General refusing to certify the Bill as a whole. If hon. Members will carefully consider these points, they will understand that their power to discuss the affairs of the Commission will not be abrogated in any way even if we omitted this clause. So, I beg to move that clause 12 (*a*) be omitted."

The amendment was duly seconded.

* The Hon. the PRESIDENT:—" Both the amendments of Mr. Nachiyappa Gounder and the Hon. the Revenue Member are for discussion."

* Diwan Bahadur T. A. RAMALINGAM CHETTIYAR:—" I agree with most of the remarks of the Hon. the Revenue Member, but there is this difficulty of finding out later on whether the Minister took action on the recommendation of the Commission or not. There is no doubt the Minister's conduct can be criticised in the Council. But how are we to know whether the Ministers followed the advice of the Commission or not, or acted against the wishes of the Commission. There are no means of knowing these things. There will be a report. It may not be available to the House unless there is a provision in this Bill for placing the report on the table of the House. That seems to

be an important matter. We all agree that the conduct of the Services Commission itself cannot be discussed in this House, but the treatment which the Commission has received at the hands of the Government is a matter which is certainly within the ambit of discussion of this House. All that the clause as laid down in the Select Committee Report says is that copies of the report should be supplied to Members. There is nothing more. I do not see why the Governor-General or the Secretary of State should object to a provision like this. It does not provide for a discussion of the report in the Council. If it does, I can understand the objection of the Hon. the Revenue Member. All that it provides for is only the placing of the report on the table. It does not give any power to discuss the conduct of the Commission and it is always open to the Secretary of State and the Government to say that the conduct of the Commission cannot be a matter of debate in the Legislative Council. Probably the Government may frame a rule in those terms. Such being the case, I do not see why there should be a motion for the deletion of this clause. After hearing the Hon. the Revenue Member it seems to me that there is some force in the argument that section 20 of the existing Services Commission Act should not be reintroduced in this present Bill; but I cannot see any objection to the retention of this clause as framed by the Select Committee."

The Hon. Sir CHARLES SOUTER:—"I think there is a way out of the difficulty. I am prepared to withdraw my motion and leave this clause as it is."

Mr. K. A. NACHIYAPPA GOUNDER:—"Sir, I am prepared to withdraw my motion as a matter of compromise."

Both the amendments of Mr. Nachiyappa Gounder and the Hon. the Revenue Member were by leave withdrawn.

The Hon. Sir CHARLES SOUTER:—"Mr. President, I move—

'*that clauses* 12-A, 13 *and* 14 *be renumbered as clauses* 13, 14 *and* 15 *respectively*.'"

The motion was duly seconded.

The amendment was put and carried.

Clauses 12-A, 13 and 14, as renumbered were put and carried.

The schedule was put and carried.

5 p.m. The preamble was put and carried.

The Hon. Sir CHARLES SOUTER:—"I now move—

'*that the Bill as now amended be passed into law.*'"

The Hon. Sir K. V. REDDI NAYUDU:—"I second it."

The motion was put and carried and the Bill was passed into law.

The House then adjourned to meet again at 11 a.m. on Wednesday, the 5th February 1936.

XI.—PAPERS LAID ON THE TABLE OF THE HOUSE.

[a] (1) *Note of the Public Works and Labour Department, dated the 20th January 1936, in connexion with the answer to a supplementary question to question No. 378 answered on the 1st November 1935 regarding preference to Coimbatore cement.*

[b] (2) *G.O. No. 1688, Development, dated 3rd December 1935—Industries—Industrial Engineering Workshops, Madras—Audit report of the accounts—Year ending 31st March 1935—Recorded with remarks.*

D. K. V. RAGHAVA VARMA,
Acting Secretary to the Legislative Council.

TAMIL NADU LEGISLATIVE ASSEMBLY
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TRUTH ALONE TRIUMPHS

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[a] Printed as Appendix IX on page 534 infra.

[b] Printed as Appendix X on pages 534–540 infra.